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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,697

04/26/2005

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2685

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EXAMINER

VU, QUYNH-NHU HOANG

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,697	Applicant(s) YAMADA ET AL.	
	Examiner QUYNH-NHU H. VU	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,7 and 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/29/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

Amendment filed on 10/31/08 has been entered.

Claims 1, 4, 6-7, 17-22 are present for examination.

Claims 5, 8-16 are withdrawn.

Claims 2-3 are cancelled.

Information Disclosure Statement

The information disclosure statement filed 8/29/08 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 17 is mis-descriptive. According to Figs. 1-3, and 6A-B (Elected Species-SubSpecies), there is only one hung member 3 formed of hook-shaped; and only one suspender 2 formed of ring shaped. However, Applicant claims there are two hung members and two suspenders. Which elements do denote for the other hung member and suspender? Does Applicant mean that the hung member is cord-shaped; and the weight

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measuring device 2 further having a ring shaped located at the opposite end of suspender 2, as shown in Fig. 6A?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6-7, 20-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bujan (US 3,107,745).

Bujan discloses a medical liquid feeding unit comprising: a medical liquid feeding device including an expandable container 22 having an inlet port (at the bottom of the container 22), not only that, it is very well-known in the container art including an inlet port for supplying a liquid; A fee duct 23; a hung member (a hole where the bail/hook 20 hooked into the hole); a medical liquid meter (Figs. 2-3) including a weight measuring device 10; a suspender 20; wherein the weight of the medical liquid feeding device being measured under a condition that the medical feeding device is suspended by suspended by the suspender; a cord shape 14 adapted to maintain the connection between the medical liquid meter and the medical liquid feeding device when the suspender is disengaged from the medical liquid feeding device.

It has been held that the recitation that an element cord-shaped connection is “adapted to/capable of...” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Regarding claims 6-7, the weight measuring device includes a weight-measuring indicator (70 and the marker on the scale 10); an elastic/spring member 110.

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Regarding claims 20, Additionally, it is well established that a recitation with respect to the manner in which an apparatus (the suspender) is intended to be employed, i.e. ..for disengageably engaging the hung member so that the medical liquid feeding can be suspended from the medical liquid meter for measuring the weight of the medical liquid feeding device, a functional limitation, does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim, see *In re Pearson*, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974).

Regarding claim 21, the closed loop (wherein the 1st bail/cord-shaped connection member/hook 14 inserted into the hole of scale 10) at the second end of the case of the medical liquid meter; the cord-shaped connection member 14.

Claims 17-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bujan (US 3,107,745).

As best as understood, Bujan discloses the invention substantially as claimed. Bujan further discloses the hung member (the hole located in the container, wherein the suspender 20 hooked into the hole of container 20) formed of ring shaped but not hook-shaped; the suspender 20 is hook-shaped; the other of hung member 16 is formed of rod shaped but not the ring shaped, and a second suspender 14 formed of hook-shaped but not a ring shaped.

As known that, Bujan discloses all the claimed limitations. The only different is the shapes of hung member and suspender.

It would have been an obvious matter of design choice to provide ring shaped or any shapes, and it appears that the invention would perform equally well with hung member and suspender of prior art.

Response to Arguments

Applicant's arguments with respect to claims 1, 4, 6-7, 17-22 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUYNH-NHU H. VU whose telephone number is (571)272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763